

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Group Art Unit: 2434
)	
Ernst B. Carter et al.)	Examiner: Powers, William S.
)	
Serial No.: 10/648,630)	STATEMENT OF THE CORRECT
)	PATENT TERM ADJUSTMENT: BASES
Filed: August 25, 2003)	UNDER § 1.702 FOR THE
)	ADJUSTMENT
)	
For: ENCRYPTING OPERATING)	162 North Wolfe Road
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. This statement is being submitted in support of the “REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE” to which this statement is attached.

37 C.F.R. § 1.705(b)(2)(i)

2. The patent term adjustment shown on the Notice of Allowance is 492 days. It is respectfully suggested that the correct patent term adjustment under § 1.702 is 1,210 days (511 “B” delay days plus 669 “A” delay days).

37 C.F.R. § 1.705(b)(2)(ii)

3. The bases on which Applicant seeks adjustment are as follows:
Adjustment is sought for the following period: August 26, 2006 through February 18, 2008
Adjustment to be made for this date under § 1.702(f): 511 days
Basis: Under § 1.702(b), 542 is the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a)

(August 25, 2003) ... and ending on the date the patent was issued, but not including the sum of the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed (February 19, 2008) and ending on the date the patent was issued. 31 days of this period is attributable to Applicant delay under § 1.704 that includes an 11 day period beginning on September 14, 2007 and ending on September 24, 2007, which reflects the period in which the reply to the Non-Final Rejection mailed on June 13, 2007 was in excess of the 3 month statutory period and a 20 day period beginning on March 16, 2009 and ending on July 6, 2009, which reflects the period in which the reply to the Final Rejection mailed on March 16, 2009 was in excess of the 3 month statutory period. Thus, under § 1.702(f), the adjustment to be made is 542 USPTO delay days less 31 Applicant delays, which equals 511 days.

Adjustment is sought for the following period: October 26, 2004 through February 7, 2007

Adjustment to be made for this date under § 1.702(f): 669 days

Basis: Under § 1.702(a)(1), 835 is the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) (August 25, 2003) ... and ending on the date of mailing of an action under 35 U.S.C. 132 (Restriction Requirement mailed on February 7, 2007). 165 days of this period overlaps with the 542 day period described above under § 1.702(b) (from August 26, 2006 through February 7, 2007). Thus, under Wyeth and § 1.702(f), the adjustment to be made is 835 USPTO delay days less 165 overlap days, which equals 669 days.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: April 28, 2010

By: /Jonathan O. Owens/

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